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March 29, 2013

2013 MAR 29 A 10: 26

Docket Control Center
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007



RE: MOTION TO DISMISS FOR LACK OF COMPLIANCE & TOTAL DISREGARD
Doyle Thompson Application: Docket No. SW-20851A-12-0226

On April 2011, DII-Emerald Springs, LLC (hereinafter "DII") filed an application for Sewer Certificate of Convenience and Necessity ("CC&N") with the Commission in Docket No. **WS-2079A-11-0140**.

On July 2011, DII also filed a "Rate Application" Docket No. **WS-20794A-11-0279**.

On August 2011, The Commission's Utility Division ("Staff") found DII's applications to be sufficient.

DII during the entire process has responded respectfully and in a timely manner to all requests from Staff in an effort to demonstrate the willingness to comply and obey all requests and procedural orders.

On March 8, 2012 Staff advised Mr. Thompson that he would need to apply for a CC&N; and was provided with information on how to access the Commission's Sewer Rules and Application for a CC&N. Mr. Thompson was also provided with appropriate contact information for Staff. "Please refer to Staff's Notice of Filing Supplemental Staff Report" filed on 3-14-12, Image # 0000135160 of the docket.

On April 10, 2012 a Procedural Conference was held, at that time; Mr. Thompson was granted Intervention. During this procedural conference, Mr. Thompson indicated he intended to file a CC&N application within 30 days from 4-10-2012.

On April 11, 2012 a Procedural Order was issued (Image # 0000135808) ordering Mr. Thompson to file one (1) of three (3) options by 5-10-2012 which is within the 30 days Mr. Thompson indicated during the Procedural Conference. Well, Mr. Thompson failed to comply with this Procedural Order.

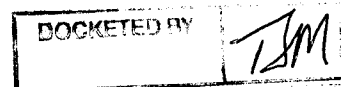
On May 29, 2012 (Image # 0000137073), Mr. Thompson filed a statement indicating he intends to file an application for CC&N as soon as possible (No date was provided).

On June 11, 2012 (Image # 0000137397), Staff's Response to Procedural Order indicates Mr. Thompson finally filed an application for CC&N on 6-7-2012. However, based on information received from Staff, this application was incomplete.

On July 31, 2012 (Image # 0000138288) a Procedural Order was issued indicating DII's & Thompson's Dockets be consolidated. However, as of this date Mr. Thompson has not received a letter of sufficiency. DII has been in communication with Staff and was informed that Mr. Thompson has been given multiple extensions to comply with the documentation in order to complete his CC&N application. The latest extension was due on 9-30-2012 and once again, Mr. Thompson failed to comply. It has been approximate 90 days since Mr. Thompson filed his CC&N application on 6-7-2012 and still incomplete.

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On October 16, 2012 (Image # 0000140055), Staff issued an insufficiency letter to Mr. Thompson.

On November 27, 2012 (Image # 0000140596), Mr. Thompson filed information in response to Staff's insufficiency letter from October 16, 2012.

On January 8, 2013 (Image # 0000141300), Staff issued a Sufficiency Letter indicating Mr. Thompson has met the minimum sufficiency requirements. It took Mr. Thompson approximate 7 months from the date he filed his CC&N application on 6-7-2012 to secure a sufficiency status.

On January 10, 2013 (Image # 0000141343), a Procedural Order was issued scheduling a hearing to commence on April 2, 2013, and establishing other procedural requirements and deadlines. Among those, Mr. Thompson was required by February 22, 2013, mail and publish a public notice (instructions and sample were provided). The Procedural Order also required Mr. Thompson to file certification of the mailing and publication as soon as practical after the mailing and publication had been completed, but no later than March 8, 2013. Again, Mr. Thompson did not comply, causing more delays in this process.

On March 19, 2013 (Image # 0000143598), a Procedural Order was issued directing Mr. Thompson to file, by March 25, 2013, either (1) a certification of mailing and publication, establishing that the prescribed notice was mailed and published by February 22, 2013, as ordered; or (2) an explanation of the notice actually provided, along with an explanation for the delay in filling the certification of mailing and publication. Either filing shall be accompanied by a **copy of any notice** mailed or published. Once again, Mr. Thompson did not comply, and decided to ignore the Procedural order.

On March 22, 2013, was the deadline for parties to file any objections to the consolidated Staff report. Mr. Thompson did not file any objections or comments at all.

On March 26, 2013 (Image # 0000143771), a Procedural Order was issued indicating the evidentiary hearing scheduled for April 2-3, 2013 at 10:00 am was vacated. This was caused by Mr. Thompson's noncompliance behavior. The Procedural Order also stated "that the Commission's time frame to issue a decision as to Doyle Thompson's application for a Certificate of Convenience and Necessity is hereby suspended indefinitely".

Since March 8, 2012 to March 29, 2013 Mr. Thompson has failed to comply with all procedural orders, his own timeline, and requested extensions. Therefore, it is clear Mr. Thompson has demonstrated the lack of compliance, interest, and respect to this process, Staff and the Judge.

It has been over 1 year since Mr. Thompson was advised to apply for the CC&N and yet, he continues to choose to be in noncompliance and disrespectful to the process.

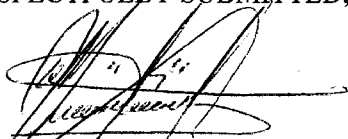
Mr. Thompson's noncompliance behavior has done nothing positive to this process. However, he has managed to delay the normal course of this process for months and months.

In addition to all of the above, Staff is fully aware Mr. Thompson is already in violation of his general permit, as the peak flow has surpassed his permit limit of 20,000 gallons per day.

CONCLUSION:

Based upon the foregoing, DII respectfully moves to dismiss docket number **SW-20851A-12-0226 (Doyle Thompson CC&N application)** and requests to expedite DII applications to the next step of the process as it has been two (2) years since DII first filed its CC&N application.

RESPECTFULLY SUBMITTED, this 29th day of March, 2013.

A handwritten signature in black ink, appearing to read 'Henry Melendez', is written over a horizontal line.

DII Emerald Springs, LLC
Henry Melendez, President